

§210.44

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issue, such as a violation of section 337, was decided adversely to the party.

(4) A party's failure to file a petition for review of an initial determination shall constitute abandonment of all issues decided adversely to that party in the initial determination.

(5) *Service of petition.* All petitions for review of an initial determination shall be served on the other parties by messenger, overnight delivery, or equivalent means.

(c) *Responses to the petition.* Any party may file a response within eight (8) days after service of a petition of a final initial determination under §210.42(a)(1), and within five (5) business days after service of all other types of petitions, except that a party who has been found to be in default may not file a response to any issue as to which the party has defaulted. If a response to a petition for review filed under this paragraph exceeds 50 pages in length, it must be accompanied by a summary of the response not to exceed ten pages. Responses to petitions for review may not exceed 100 pages in length, exclusive of the summary and any exhibits.

(d) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review of an initial determination filed pursuant to §210.42(a)(1) within 60 days of the service of the initial determination on the parties, or by such other time as the Commission may order. The Commission shall decide whether to grant, in whole or in part, a petition for review of an initial determination filed pursuant to §210.42(a)(2) or §210.42(c), which grants a motion for summary determination that would terminate the investigation in its entirety if it becomes the final determination of the Commission, §210.50(d)(3), or §210.70(c) within 45 days after the service of the initial determination on the parties, or by such other time as the Commission may order. The Commission shall decide whether to grant, in whole or in part, a petition for review of an initial determination filed pursuant to §210.42(c), except as noted above, within 30 days after the service of the initial determination on the parties, or by such

other time as the Commission may order.

(2) The Commission shall decide whether to grant a petition for review, based upon the petition and response thereto, without oral argument or further written submissions unless the Commission shall order otherwise. A petition will be granted and review will be ordered if it appears that an error or abuse of the type described in paragraph (b)(1) of this section is present or if the petition raises a policy matter connected with the initial determination, which the Commission thinks it necessary or appropriate to address.

(3) The Commission shall grant a petition for review and order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its notice, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. If the notice solicits written submissions from interested persons on the issues of remedy, the public interest, and bonding in addition to announcing the Commission's decision to grant a petition for review of the initial determination, the notice shall be served by the Secretary on all parties, the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, the U.S. Customs Service, and such other departments and agencies as the Commission deems appropriate.

[59 FR 39039, Aug. 1, 1994, as amended at 59 FR 67628, Dec. 30, 1994; 60 FR 53120, Oct. 12, 1995; 73 FR 38325, July 7, 2008]

§210.44 Commission review on its own motion of initial determinations on matters other than temporary relief.

Within the time provided in §210.43(d)(1), the Commission on its own initiative may order review of an initial determination, or certain issues in the initial determination, when at least one of the participating Commissioners votes for ordering review. A self-initiated Commission review of an initial determination will be ordered if it appears that an error or abuse of the

kind described in §210.43(b)(1) is present or the initial determination raises a policy matter which the Commission thinks is necessary or appropriate to address.

§210.45 Review of initial determinations on matters other than temporary relief.

(a) *Briefs and oral argument.* In the event the Commission orders review of an initial determination pertaining to issues other than temporary relief, the parties may be requested to file briefs on the issues under review at a time and of a size and nature specified in the notice of review. The parties, within the time provided for filing the review briefs, may submit a written request for a hearing to present oral argument before the Commission, which the Commission in its discretion may grant or deny. The Commission shall grant the request when at least one of the participating Commissioners votes in favor of granting the request.

(b) *Scope of review.* Only the issues set forth in the notice of review, and all subsidiary issues therein, will be considered by the Commission.

(c) *Determination on review.* On review, the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge. In addition, the Commission may take no position on specific issues or portions of the initial determination of the administrative law judge. The Commission also may make any findings or conclusions that in its judgment are proper based on the record in the proceeding. If the Commission's determination on review terminates the investigation in its entirety, a notice will be published in the FEDERAL REGISTER.

[59 FR 39039, Aug. 1, 1994, as amended at 60 FR 53120, Oct. 12, 1995; 73 FR 38235, July 7, 2008]

§210.46 Petitions for and sua sponte review of initial determinations on violation of section 337 or temporary relief.

(a) *Violation of section 337.* An initial determination issued under §210.42(a)(1)(i) on whether respondents have violated section 337 of the Tariff

Act of 1930 will be processed as provided in §210.42(e), (h)(2), and (i) and §§210.43 through 210.45. The Commission will issue a notice setting deadlines for written submissions from the parties, other Federal agencies, and interested members of the public on the issues of remedy, the public interest, and bonding by the respondents. In those submissions, the parties may assert their arguments concerning the recommended determination issued by the administrative law judge pursuant to §210.42(a)(ii) on the issues of remedy and bonding by respondents.

(b) *Temporary relief.* Commission action on an initial determination concerning temporary relief is governed by §210.66.

§210.47 Petitions for reconsideration.

Within 14 days after service of a Commission determination, any party may file with the Commission a petition for reconsideration of such determination or any action ordered to be taken thereunder, setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the determination or action ordered to be taken thereunder and upon which the petitioner had no opportunity to submit arguments. Any party desiring to oppose such a petition shall file an answer thereto within five days after service of the petition upon such party. The filing of a petition for reconsideration shall not stay the effective date of the determination or action ordered to be taken thereunder or toll the running of any statutory time period affecting such determination or action ordered to be taken thereunder unless specifically so ordered by the Commission.

§210.48 Disposition of petitions for reconsideration.

The Commission may affirm, set aside, or modify its determination, including any action ordered by it to be taken thereunder. When appropriate, the Commission may order the administrative law judge to take additional evidence.